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REPT. 99-201
Part I

VICTIMS OF TERRORISM COMPENSATION ACT

JULY 15, 1985.—Ordered to be printed

Mrs. SCHROEDER, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 2851 which on June 25, 1985, was referred jointly to the Committee on Foreign Affairs and the Committee on Post Office and Civil Service]

[Including cost estimate of the Congressional Budget Office]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 2851) to amend title 5, United States Code, to provide certain benefits for Government employees and similarly situated individuals who are captured, kidnaped, or otherwise deprived of the their liberty as a result of hostile action directed against the United States; to provide for certain payments to individuals who were taken hostage as a result of the seizure of the United States Embassy in Iran in 1979; and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of this legislation is to provide permanent authority for Federal agencies to provide medical and educational benefits and other compensation to U.S. Government employees and their families who are victims of terrorism, to require the President to make a cash payment to the American employees held in Iran from November 4, 1979 to January 20, 1981, and to other employees taken captive since November 4, 1979, and to authorize payment of compensation for family members of Government employees and foreign national employees of the U.S. Government who are held captive, injured or killed as a result of their association with the U.S. Government or its employees.

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COMMITTEE ACTION

On April 3, 1985, Rep. Dan Mica introduced by request H.R. 1956, a bill to amend and extend the Hostage Relief Act of 1980 (P.L. 96-449). H.R. 1956 was referred jointly to the Committees on Foreign Affairs, Post Office and Civil Service, and Ways and Means. On April 4, 1985, Rep. Patricia Schroeder introduced H.R. 2019, a bill to provide certain benefits to Government employees and similarly situated individuals who are captured or otherwise deprived of their liberty as a result of hostile action directed against the United States. H.R. 2019 was referred to the Committee on Post Office and Civil Service.

The Subcommittees on Civil Service and on Compensation and Employee Benefits of the Committee on Post Office and Civil Service and the Subcommittee on International Operations of the Committee on Foreign Affairs held joint hearings on H.R. 1956 and H.R. 2019 on June 12, 1985, and June 24, 1985 (Serial No. 99-12). Testimony was presented on June 12 by Ronald I. Spires, Under Secretary for Management, Department of State; Frank Monastero, Assistant Administrator for Operations, Drug Enforcement Administration; Dr. Katherine Keough, President, Family Liaison Action Group (FLAG) and Dr. William Keough, who was held hostage in Iran; Walter F. Weiss, Congressional Liaison, and James A. Derrick, Member, Board of Governors, American Foreign Service Association; and Norman Painter, President, Local 1812, American Federation of Government Employees.

On June 24, testimony was received from the Honorable Diego C. Asencio, Ambassador of the United States to Brazil, who was held hostage in Colombia in 1980; the Honorable Thomas Boyatt, former Ambassador of the United States to Colombia, who was a victim of a 1969 airplane hijacking; the Honorable L. Bruce Laingen, Vice President, National Defense University, a former Iranian hostage; Alan C. Golacinski, Chief, Education and Training for the Office of Security, Department of State, a former Iranian hostage; and Helen Susan Low, Association of American Foreign Service Women.

On June 25, 1985, the Victims of Terrorism Compensation Act, H.R. 2851, was introduced by Rep. Schroeder, Rep. Mary Rose Oakar, and Rep. Mica, and was jointly referred to the Committee on Post Office and Civil Service and the Committee on Foreign Affairs.

On June 26, 1985, the Committee on Post Office and Civil Service ordered H.R. 2851 favorably reported by voice vote, a quorum being present.

SUMMARY OF THE BILL

H.R. 2851 amends title 5, United States Code, to authorize the head of an agency to deposit a captive employee's paycheck into an interest-bearing savings fund in the Treasury; to require payment of medical benefits for captives and family members for physical and mental health care not covered by Government or other insurance; to express the sense of Congress that the recommendation of the President's Commission on Hostage Compensation that the Iranian hostages be provided with $12.50 for each day of captivity is

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unacceptable; to require the President to make a payment of $50,000 to the American employees held in Tehran from November 1979 to January 1981; to require payment to the Iranian hostages released after shorter periods of captivity and to other Government employees taken captive since November 4, 1979, a payment no less than the maximum per diem allowance payable in the geographic area at the time such individuals were taken captive; to extend certain civil relief provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 to Government employees held captive; to provide payment of educational expenses for the spouse and children of an employee held captive 90 days or longer, with the benefits payable during the employee's captivity, and if the employee dies while a captive, to provide immediate educational benefits for the spouse and children which could continue for 45 months; and, effective October 1, 1985, to authorize an agency head to pay compensation for the disability or death of an employee (including individuals under contract with the United States Government), or family member of an employee, if the disability or death was caused by hostile action and was a result of the individual's relationship with the United States.

STATEMENT

The Victims of Terrorism Compensation Act, H.R. 2851, provides permanent authority for the payment of medical and educational benefits and other compensation to Government employees and members of their families who are victims of terrorism.

At noon on November 4, 1979, 3,000 young Iranians swarmed over the walls of the American Embassy in Tehran and, after three and a half hours of assault, seized control of the embassy and took sixty-four embassy staff members hostage. Also taken were two American private citizens who happened to be at the embassy at the time of the siege. Three American officials, including the charge d'affairs L. Bruce Laingen, were in transit between the Iranian Foreign Ministry and the embassy at the time of the seizure and sought refuge in the Foreign Ministry. Another six Americans were in Tehran and eventually found safety in the Canadian embassy.

Fifty-two American hostages were held in Tehran for 444 days, until January 20, 1981. Over that fifteen month period, Americans anguished over the fate of their compatriots in Tehran. Pressure built in Congress to do something for the hostages. The families of the hostages were highly visible pleading for their release.

THE HOSTAGE RELIEF ACT OF 1980

Responding to this concern, Rep. Dante B. Fascell introduced legislation on April 17, 1980, to provide certain financial, medical, and educational benefits to the Iranian hostages. During consideration of this legislation, the Administration requested that the legislation be made temporary "pending completion of a thorough and independent study of the problems drawing upon the experiences of the hostages". (Letter from J. Brian Atwood, Assistant Secretary of State for Congressional Relations to Chairman James P. Hanley, Committee on Post Office and Civil Service, August 26, 1980.)

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The legislation (the Hostage Relief Act of 1980, P.L. 96-449) was drafted to specifically include Richard Starr who was kidnapped by guerrillas in Colombia on February 14, 1977, while a Peace Corps volunteer. He was released in February 1980. Also included were other employees of the United States Government who were placed in a captive status during the hostage period, which was defined to begin on November 4, 1979, and end on the date the President certified that the Iranian hostages were released or otherwise accounted for.

While the 1980 legislation was temporary and specifically aimed at the Iranian hostages, others were covered. Among the others covered were U.S. Ambassador Diego C. Asencio who was taken hostage during a diplomatic reception in Bogota, Colombia, Ambassador Asencio was released after ransom was paid following two months of captivity.

The model for the 1980 legislation was the package of benefits provided to prisoners of war during the Vietnam era and to the crew members of the U.S.S. pueblo. Whether there should be a linkage between benefits provided to military personnel held captive and the benefits which should be provided to civilians in similar circumstances was an issue which continued to confront the Committee during the development of the instant legislation.

THE PRESIDENT'S COMMISSION ON HOSTAGE COMPENSATION

The 1980 legislation provided no special payment to the hostages. At the time the bill was passed, the hostages were still languishing in Tehran and the information available on the nature of their treatment was scanty. After their release, however, the President appointed a Commission on Hostage Compensation. The charter of that commission said, in part, "the Commission shall study and analyze, and make recommendations to the President on the question whether the United States should provide financial compensation to the United States nationals who have been held in captivity outside the United States, either (1) by or with the approval of a foreign government, or (2) by reason of their status as employees of the United States Government or as dependents of such employees." Specifically, the charter required the Commission to address the following issues:

(1) whether any legislation authorizing compensation should set forth specific legislative standards, or whether the standards by which to award compensation should be administratively developed;

(2) whether any standards developed either legislatively or administratively should be applied uniformly to civilian and military government employees, dependents of such employees, and private citizens, or whether separate criteria should be developed for these or other categories;

(3) whether an existing administrative body should determine amounts of compensation, or whether a new body should be established for this purpose; and

(4) whether compensation should be paid for injuries suffered by members of families of persons who have been held in captivity.

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The President's Commission on Hostage Compensation reported on September 21, 1981. The Commission made eight recommendations. Recommendation 1 provided for a tax-exempt payment to the hostages of $12.50 per day for each day of captivity. The Commission pointed out that this detention benefit would be similar to the one given to Vietnam POW's and interned civilians in Vietnam and to the crew of the Pueblo. Recommendation 5 said "the United States Government [should] make no payment to the Iranian hostages or their family members of any compensation intended to be the equivalent to compensatory damages for injuries incurred as the result of the unlawful detention of the hostages by the Iranian Government."

These two recommendations were greeted with scorn and contempt by many of the hostages, because, in the written agreement providing for the release of the hostages, the right of the hostages to sue the Government of Iran for damages had been cut off. Paragraph 11 of the "Declaration of the Government of the Democratic and Popular Republic of Algeria" known as the Algiers Agreement read, in part,

> Upon the making by the Government of Algeria of the certification described in Paragraph 3 above [the provision of the agreement specifying that the Government of Algeria certifies to the Algerian Central Bank that the 52 U.S. nationals had safely departed from Iran] the United States will promptly withdraw all claims now pending against Iran before the International Court of Justice and will thereafter bar and preclude the prosecution against Iran of any pending or future claim of the United States or a United States national arising out of events occurring before the date of this declaration related to (A) the seizure of the 52 United States nationals on November 4, 1979, (B) their subsequent detention, (C) injury to United States property or property of the United States nationals within the United States Embassy compound in Tehran after November 4, 1979, and (D) injury to the United States nationals or their property as a result of popular movements in the course of the Islamic Revolution in Iran which were not an act of the Government of Iran. The United States will also bar and preclude the prosecution against Iran in the courts of the United States of any pending or future claim asserted by persons other than the United States nationals arising out of the events specified in the preceding sentence.

President Carter issued Executive Order 12283 to carry out this commitment on January 19, 1981. To give formal effect to this Executive order, regulations were issued on February 24, 1981. Section 535.216 of title 31, Code of Federal Regulations, contains language prohibiting the prosecution of these claims. Some of the hostages unsuccessfully sued, claiming the Algiers Agreement was unenforceable because it was entered into under duress. Others sued the United States unsuccessfully, claiming that the Government's implementation of the Algiers Agreement constituted a taking of the hostages property right to sue Iran.

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To add insult to injury, the regulations, at section 535.701, specified that anyone who willfully violated the regulations prohibiting lawsuits against Iran could be fined $50,000 and imprisoned for ten years.

Since the issuance of the report of the Commission, no legislation has been introduced to provide for the payment of $12.50 per day. The State Department sent draft legislation to Congress, in 1982, 1983, and on March 26, 1985, which would authorize the President to make a payment, without specifying the amount.

The Commission further recommended that permanent legislation be enacted so that there is a statutory base on which to pay hostages in the future. This recommendation was consistent with the position expressed by Chairman William D. Ford of the Committee on Post Office and Civil Service in a letter he sent to Secretary of State Alexander M. Haig, Jr. on March 3, 1981.

The 1980 legislation provided some benefits, such as medical benefits, which continue to be available by their terms, and other benefits, such as educational benefits, which expired when the hostages were released. However, the legislation only applied to individuals who were taken captive during the hostage period which ended, pursuant to the law, on January 1, 1983.

GROWTH OF ANTI-AMERICAN TERRORISM

The incidence of terrorist actions directed against the United States Government and its employees has increased dramatically within the past few years. Political terrorists and drug traffickers have turned to hijacking, kidnapping, and murder in attempts to force the United States to act in desired ways. Indeed, the recent hijacking of a TWA plane and the holding hostage of 39 Americans was done to force another country, Israel, to act in a desired way. Government employees conscientiously doing their jobs have been subject to captivity and physical violence.

Much, but not all, of the political terrorism has been directed against Government employees abroad. The State Department reported that in 1984 alone there were 63 terrorist acts directed against U.S. employees or property. Thirteen U.S. citizens were killed and 23 wounded. The summary of "Thirteen Months of Anti-US Terrorism" published by the Department of State on March 13, 1985, says, "Anti-US terrorism in the 13-month period January 1, 1984–February 1, 1985, was the most intense in recent years: Serious incidents against US diplomatic and military personnel and installations numbered 63. Casualties inflicted on US and foreign nationals included 42 fatalities, 85 wounded, and 3 kidnapped."

The kidnapping and murder of Drug Enforcement Administration (DEA) agent Enrique Camarena Salazar in Mexico was a brutal example of narco-terrorism. Narco-terrorism, violence related to drug trafficking, does not happen exclusively outside the United States. In October 1982, FBI Special Agent Roland Rozier, who was working undercover in an interstate auto theft and narcotics distribution ring, was kidnapped near Douglas, Georgia. Rozier was held at gunpoint and severely beaten for more than an hour. He woke up in the back of a truck as his abductors were dis-

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cussing where to take him to kill him. Rozier jumped from the truck and, the next morning, was found and taken to a hospital.

Law enforcement agents may be assumed to accept certain risks in performing their jobs. Yet, even clerical employees of the Federal Bureau of Investigation (FBI) face the risk of being taken hostage. In June 1981, an intruder armed with a submachine gun forced his way into the FBI offices in Atlanta, Georgia. Eight FBI support employees and a guard were taken hostage. The incident ended after several hours. Two hostages were wounded and the assailant was killed. He was killed by a SWAT team sniper while holding a fully automatic machine-pistol to the head of one of the hostages.

Family members of Government employees have also been victims of terrorism. In the April 1983 bombing of the American embassy in Beirut, the wife of one U.S. employee was killed and another was wounded. In 1980, the wife of the Special Agent in Charge of the Drug Enforcement Administration's District Office in Chiang Mai, Thailand, was abducted at gunpoint and murdered. In early 1985, embassy children were evacuated from Bogota, Colombia, as part of steps taken to increase the security of the mission. This decision took into account the fact that there were threats of violence by drug traffickers against the children of American diplomats.

Foreign Service national employees of the U.S. Government are frequently victims of terrorism directed against the United States. Eighty-eight foreign service nationals were killed or injured in the two bombings of the American Embassy in Beirut. In 1984, two foreign service nationals in El Salvador were killed while walking to work. Assassins approached them and, after asking if they worked "for the enemy Americans," shot them.

COMPARISON OF H.R. 1956 AND H.R. 2019

The major differences between H.R. 1956, introduced by Rep. Mica, and H.R. 2019, introduced by Rep. Schroeder, and the reason the committee adopted the relevant provision in H.R. 2851, the reported bill, are as follows:

Format

H.R. 1956 makes permanent the Hostage Relief Act of 1980 (P.L. 96-449). H.R. 2019 amends title 5, United States Code. The reported bill adopts the approach of H.R. 2019 because title 5 is the permanent law which governs the benefits and other terms of employment of Government employees.

Coverage

H.R. 1956 applies only to hostile action abroad, while H.R. 2019 covers Government employees who are victims of terrorism abroad or within the United States. The committee adopted the broader coverage of H.R. 2019 because of the number of terrorist incidents that have occurred and are likely to continue to occur within the United States. It would be a perverse situation if lesser benefits were provided for a Government official kidnapped in El Paso, Texas than one kidnapped across the river in Juarez, Mexico.

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H.R. 1956 includes within the definition of American hostage members of the uniformed services. H.R. 2019 does not cover members of the armed forces. The committee lacks jurisdiction over benefits for members of the armed forces. Appropriate permanent legislation for military personnel is a matter within the jurisdiction of the Committee on Armed Services.

Pay allotment

H.R. 1956 requires that an employee be held captive for 30 days before an allotment of pay into an interest-bearing savings fund can be made. H.R. 2019 has no waiting period. The committee adopted the provisions in H.R. 2019 because Federal employees are paid on a bi-weekly or monthly basis. A waiting period of between 14 and 30 days is inherent in the system. Adding a new waiting period on top of the normal delay in getting a paycheck would unnecessarily complicate the process.

Medical and educational benefits

H.R. 2019 requires that medical and educational benefits be available to family members and to employees who are victims of terrorism. H.R. 1956 leaves availability of these benefits to agency discretion. The committee adopted the mandatory provisions of H.R. 2019. The medical benefits are available to family members and employees after Government health insurance benefits are exhausted, and the committee believes that victims of terrorism should not have to depend on agency discretion to obtain needed physical and mental health care. The committee recognizes that the obligation to provide for health care of former hostages and members of their families may continue for the rest of the lives of these individuals. The educational benefits become available only after the employee has been in captive status longer than 90 days and are available only during the time the employee remains in captive status. Again, the committee believes that educational benefits for family members of employees in captive status should not depend on agency discretion.

Payment to hostages

H.R. 1956 authorizes the President, in his discretion, to make payment to the Iranian hostages and others taken captive since November 4, 1979. H.R. 2019 requires the President to make a cash payment to these individuals, leaving only the amount of the payment to the President's discretion. During hearings, the witness of the Department of State informed the committee that it was the intention of the Administration to provide a payment equal to $12.50 per day for each day of captivity to the Iranian hostages. The reported bill contains a provision mandating the payment of $50,000 to each of those U.S. employees held captive in Iran for the full 444 days. Payments to other Iranian hostages will be based on this amount but, in no event, may be less than the maximum per diem rate payable in the region during the time of their captivity.

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Tax provisions

H.R. 1956 repeals certain tax provisions in the Hostage Relief Act of 1980. H.R. 2019 contains no tax provisions. Jurisdiction over tax provisions rests with the Committee on Ways and Means.

Compensation for disability or death of family members or Foreign Service nationals

H.R. 2019 and H.R. 2851, the reported bill, authorize agencies to pay compensation to employees and to family members of employees or individuals performing personal service to the United States who are disabled or killed if the disability or death was caused by hostile action and was a result of the individual's relationship with the United States. The amount of compensation will be offset by any similar benefits if those benefits are funded wholly or in part by the United States.

The committee believes the United States Government has an obligation to compensate family members who are injured as a result of terrorist action. It is essential to the smooth operation of our diplomatic service that spouses and children accompany employees to all but the most dangerous foreign posts. Yet if family members are injured or disabled as a result of terrorist action, the State Department can only pay for medical care. In cases of long-term disability the Department cannot now compensate the family.

In the case of foreign service nationals employed by the United States Government, sections 8137 and 8138 of chapter 81, title 5, United States Code, limit compensation for disability or death to prevailing local practice. The U.S. Government employs foreign nationals in nearly 150 countries; some local compensation systems provide benefits similar to those provided in the United States, while others provide no disability or death benefits at all. Most foreign national employees who suffer on-the-job injury or death are compensated under local systems. Sometimes this is not possible. The Lebanese social security system was expected to compensate the foreign national employees injured in the two bombings of the American embassy in Beirut. However, due to the chaos in Lebanon, the social security system had ceased functioning and, thus, no benefits were payable. In that instance, the Secretary of State wrote to the Secretary of Labor and obtained a waiver of the limitations in sections 8137 and 8138, title 5, United States Code, so that the United States could pay compensation to the injured foreign national employees.

Soldiers' and Sailors' Civil Relief Act

H.R. 1956 amends section 105 of the Hostage Relief Act of 1980 to extend the civil relief under the Soldiers' and Sailors' Civil Relief Act of 1940 provided to Federal employees by that section to all individuals with property rights in the United States who are placed in a captive status abroad during a hostage period. H.R. 2019 extends these protections only to Federal employees. Jurisdiction over extension of civil relief to private citizens rests with the Committee on the Judiciary.

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Sense of Congress

H.R. 2851, as reported, contains language expressing the sense of Congress concerning compensation to the Iranian hostages. The committee is disturbed that the hostages have received no special payment for their hardship and that they were prohibited from suing Iran for their losses.

ADMINISTRATION OBJECTIONS

The Department of State, as the Administration's spokesman on this issue, voiced two major objections to H.R. 2019 in its testimony before the committee. First, the Department of State objected to the provision in H.R. 2019 which extends coverage to Government employees who are victims of terrorism within the United States as "premature." Yet, several Government employees within the United States have been taken captive within the past few years. Terrorist organizations have threatened actions within the United States. The committee believes it is prudent to establish a uniform system of benefits in advance to cover Government employees who are victims of terrorism both within the United States and abroad. The fact that there has been less terrorism in the United States than abroad is no reason to ignore the problems of domestic terrorism.

Second, the Administration objected to the mandatory nature of the medical, educational, and cash payment benefits of H.R. 2019. However, the committee was persuaded that making medical, educational, and cash payment benefits mandatory is the only way to ensure that these benefits will be available in a timely fashion to captives and their families. During the June 24 hearing, the Honorable Thomas Boyatt, former Ambassador to Colombia, testified "[m]y experience has been, over the years, that to allow the executive branch discretionary authorities in money matters is to guarantee that nothing is going to happen."

SECTION ANALYSIS

SECTION 1. SHORT TITLE

H.R. 2851 is the Victims of Terrorism Compensation Act.

SECTION 2. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF HOSTILE ACTION

Section 2 amends subchapter VII of chapter 55 of title 5, United States Code, by adding two new sections: section 5569 (Benefits for captives) and section 5570 (Compensation for disability or death).

Section 5569

Definitions.—Subsection (a) of new section 5569 defines the terms used in the section.

Paragraph (1) defines "captive" as an individual in a captive status who is (a) a member of the civil service, or (b) a citizen, national, or resident alien of the United States rendering personal service to the United States which is similar to the service rendered by a civil service employee. This subparagraph is intended to

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cover contract employees and other individuals having a contractual-type relationship with the Government. Members of the armed forces are not covered under this definition.

Paragraph (2) defines the term "captive status" as a missing status which, as determined by the President, arises because of hostile action and is a result of the individual's relationship with the United States Government. The committee provided a broad definition of this term to ensure that unduly precise language would not stand in the way of providing benefits to victims of previously unseen forms of terrorism. A Government employee in an official travel status who is on a hijacked plane would qualify for benefits under this definition. Similarly, a contract employee who was in an embassay at the time it was taken over would also be covered. There is no requirement that the hostile action be specifically directed against the United States. The holding of 45 diplomats, including the American Ambassador, by the M-19 Movement in Columbia in 1980 would be a situation in which the Ambassador was in captive status, despite the fact that the action may not have been specifically aimed at the United States. The Presidential determination as to whether an individual is a captive due to hostile action and as to the individual's relationship with the United States Government will be made on a case-by-case basis. This determination is final. The Comptroller General has no authority to set aside such a determination.

Paragraph (3) defines "missing status" by reference to the definition of missing status under 5 U.S.C. 5561(5). In the case of an employee, missing status has precisely the same meaning as in section 5561(5). In the case of other individuals, missing status has a similar meaning. Section 5561(5) covers circumstances under which the employee is missing, missing in action, interned in a foreign country, captured, beleaguered, or besieged by a hostile force, or detained in a foreign country against his or her will.

Paragraph (4) defines "family member" as a dependent and any other individual who is a member of the family or household. The committee chose to define "family member" broadly so that persons not technically "dependent" on the captive, such as nondependent parents or adult children, would not be denied benefits where their captivity or injury would otherwise qualify under the legislation. The term "dependent," as used in paragraph (4), is defined under existing law (5 U.S.C. 5561(3)).

Savings fund.—Subsection (b) of new section 5569 establishes a savings fund to benefit individuals held captive.

Paragraph (1) of subsection (b) requires the Secretary of the Treasury to establish a savings fund to which an agency head may allot any portion of the pay and allowances of an individual in captive status to the extent that such pay and allowances are not subject to allotment under section 5563 of title 5 or any other provision of law. Section 5563 deals with the continuation, suspension, initiation, resumption, or increase of allotments while an employees is in a missing status. While there is no minimum period of captivity before a savings fund must be established, the committee recognizes that most employees are paid on a biweekly schedule. The Secretary of the Treasury may provide for a reasonable time lag before establishing a savings fund if the cost of setting up an

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account for an employee are such that it would not be appropriate to do so for short periods of captivity. the cost of establishing the fund are to be borne by the Government, not the captive.

Paragraph (2) provides that amounts allotted to the savings fund bear interest at a rate which equals the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest is compounded quarterly.

Paragraph (3) provides that amounts in the savings fund are considered as pay and allowances for purposes of section 5563 of title 5 and are subject to withdrawal under procedures established by the Secretary of the Treasury. Section 5563 permits the head of an agency to authorize a new allotment which is payable for the period an employee is in missing status. Family members dependent on the captive employee's salary should be covered under the 5563 allotment provisions so that the family is not deprived of income while the captive employee's pay is deposited in the savings fund.

Paragraph (4) provides that interest on the savings fund on any amount which the individual owes the United States under section 5562(c) of title 5 is considered part of the amount due to the United States. Section 5562(c) of title 5 provides that an employee who is determined to be absent without authority is indebted to the United States for amounts credited to his or her account. Under this provision, an employee absent without authority is also indebted to the United States for any interest earned on amounts deposited into the savings fund.

Paragraph (4) also provides that any interest earned on pay deposited in the savings fund while the agency had no evidence of the captive employee's death, due to a delay in receiving that evidence, may not be recouped by the Government.

Paragraph (5) provides that an allotment may be made without regard to section 5563(c) of title 5, which provides that all allotments from the pay and allowances of an employee in a missing status may not total more than the amount of pay and allowances the employee is permitted to allot under regulations prescribed by the head of the agency concerned. Under the bill, even if an agency had regulations that did not permit an employee to allot his or her entire pay, the head of an agency could authorize allotment of all pay to provide, for example, income for the employee's family.

Medical benefits.—Subsection (c) provides that an agency head shall pay any captive, and any family member of a captive, for the costs of medical and health care and other expenses related to such care to the extent that such care is incident to the captivity and is not covered by a Government medical or health program or by insurance. The agency head is required to make these payments. No discretion is provided. The committee believes that all medical and health care incident to the employee's being taken captive, including intensive and long-term psychiatric or psychological treatment, should be available to captives and family members. Prior hospitalization is not a prerequisite to the provision of health care, nor is there any time limit on how long these benefits must be provided.

Cash payment.—Subsection (d) of new section 5569 requires the President to make a cash payment to any individual who was or is

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in a captive status commencing on or after November 4, 1979. The cash payment may be no less than the maximum per diem payable in the geographic area of the captivity for each day of captivity. Where the captivity occurs in a geographic area for which there is no per diem prescribed, or if the captive employee's whereabouts cannot be determined, the cash payment may be no less than the maximum per diem payable in the region of captivity for each day of captivity. The President is authorized to increase the amount of the cash payment to recognize harshness of captivity. The term "geographic area" is to be read broadly in light of the circumstances. Captives held entirely in one city for which a per diem allowance is provided would be paid no less than the per diem rate for that city. Captives held in rural areas for which no per diem allowances are set should receive at a minimum the per diem rate for the capital of the country involved.

Payment under this subsection is in addition to any other amount provided by law. If a captive or former captive dies before payment has been made, the payment shall be made to the employee's beneficiaries under the provisions of subchapter VIII of chapter 55 of title 5, United States Code. Subchapter VIII concerns the settlement of accounts of a deceased employee. In the case of any person not covered by subchapter VIII, similar provisions prescribed by the President shall apply.

Benefits of the Soldiers' and Sailors' Civil Relief Act of 1940. Subsection (e) provides that under regulations prescribed by the President, the civil relief benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.) shall be available to captives. This permits courts to defer legal actions against captives when the enforced absence is prejudicial to their defense. The applicable sections are identical to those provided in the Hostage Relief Act of 1980. Section 701 of the Soldiers' and Sailors' Civil Relief Act of 1940, added in 1972, covering power of attorney is included specifically. Sections 104, 105, 106, 400 through 408, 501 through 512, and 514 are specifically made inapplicable.

Educational benefits.—Subsection (f) of new section 5569 provides education and training benefits to the spouse and children of a captive employee. Paragraph (1)(A) provides that expenses will be covered through advancement or reimbursement and will include subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses for the spouse or child while attending an educational or training institution.

Subparagraph (B) prescribes the period for which educational benefits are payable. Payments for educational expenses become available after 90 days of captivity and continue during any semester or quarter which begins before the date on which the captivity ends. If the educational or training institution is not operated on a semester or quarter system, benefits are available until the earlier of the end of any course which, began before the date on which the captivity ends or the end of the 16-week period following that date. An agency head is authorized to extend the period if special circumstances, such as continued incapacity of a captive, justify an extension.

Subparagraph (C) provides that if a cpative dies, and the death is incident to the individual's captivity, payments shall be made for

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the education or training for the spouse and children of the captive after the captive's death. The benefits become available at the time of the captive's death and could continue for a maximum for 45 months.

Subparagraph (D) provides that the educational benefits are not available to an individual who is eligible for educational assistance under chapter 35 of title 38, United States Code, or similar assistance under any other provision of law, thus preventing double coverage for family members of members of the armed forces who currently are eligible for benefits under the title 38 provisions.

Subparagraph (E) defines "child" as a dependent under section 5561(3)(B) of title 5, i.e., "an unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age."

Paragraph (2)(A) authorizes the head of an agency to pay a captive, under special circumstances, for educational expenses. Covered expenses include subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses incurred while attending an educational or training institution. This provision is intended to allow for the retraining of individuals who, after captivity, are unable to continue in their former type of work.

Subparagraph (B) makes educational benefits available after the end of the individual's captivity and until the end of any semester or quarter which begins before the date which is 10 years after the day on which the captive status of the individual terminates. Payments are available only to the extent that they are not otherwise authorized by law.

Paragraph (3) provides that educational assistance shall be discontinued if the conduct or progress of the individual receiving the assistance is unsatisfactory under standards consistent with those established under section 1724 of title 38, relating to discontinuance for unsatisfactory progress. In no event may educational assistance be provided for a period in excess of 45 months (or the equivalent thereof in part-time training.)

Paragraph (4) provides that regulations shall provide that the educational assistance is consistent with the survivors' and dependents' educational benefits under chapters 35 and 36 of title 38, which concerns veterans benefits.

Other provisions.—Subsection (g) provides that the medical benefits available under subsection (c) and the cash payment benefits available under subsection (d) may, under regulations prescribed by the President, be provided to a family member of a Government employee if the family member is held in captive status. This provision is intended to ensure that benefits would be available if, for example, the spouse or child of an employee is present in an embassy when it is taken over.

Subsection (h) provides that, except for the cash payment benefits provided in subsection (d), new section 5569 applies only to individuals held in captive status commencing on or after January 21, 1981. Those held captive before that time received health, educational, civil relief, and savings fund benefits under the Hostage Relief Act of 1980.

Subsection (i) provides that a Presidential determination under subsection (a)(2) that an individual is in captive status or a Presidential determination of a cash payment amount above the per

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diem allowance level under subsection (d) is conclusive and is not subject to judicial review.

Subsection (j) authorizes the President to prescribe regulations necessary to administer section 5569.

Section 5570

Definitions.—Subsection (a) of new section 5570 defines the terms used in that section.

Paragraph (1) defines "employee" as any individual in the civil service and any individual rendering personal service to the United States similar to the service of an individual in the civil service. This subparagraph is intended to cover foreign national employees, contract employees, and other individuals having a contractual-type relationship with the Government. The term "civil service" is defined to include "all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services," (5 U.S.C. 2101(1)). Members of the armed forces are not covered under this definition.

Paragraph (2) defines "family member" of an employee as a dependent and any other individual who is a member of the employee's family or household. The committee chose to define "family member" broadly so that persons not technically "dependent" on the captive, such as nondependent parents or adult children, would not be denied benefits where their injury or death would otherwise qualify under the legislation. The term "dependent," as used in paragraph (2), is defined under existing law (5 U.S.C. 5561(3)).

Subsection (b) authorizes the head of an agency, under regulations prescribed by the President, to pay compensation for the disability or death of an employee or a family member of an employee if the disability or death was caused by hostile action and was a result of the individual's relationship with the Government, as determined by the President. In the April 1983 bombing of the American embassy in Beirut, the wives of two U.S. Government employees were casualties: one was killed and one wounded. The State Department was able to pay for medical expenses, but nothing more. This bill does not authorize compensation for these individuals or their families. It does authorize compensation for the death or disability of employees and family members injured or killed in incidents occurring after September 30, 1985.

Subsection (c) provides that compensation payable under this section shall be reduced by the amount of any other disability or death benefits funded in whole or in part by the United States. The mandatory cash payment to captives under section (d) of new section 5569 is specifically excluded from this offset requirement.

Subsection (d) provides that a determination by the President under subsection (b) as to whether the disability or death of an employee or a family member of the employee was due to hostile action and was a result of the individual's relationship with the United States is conclusive and is not subject to judicial review. This determination is also immune from Comptroller General review.

Subsection (e) authorizes payment for medical or health expenses relating to the death or disability involved if the expenses are not

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covered under subsection (c) of new section 5569. No payment is authorized for health care expenses which are covered by Government or other insurance. Benefits under this subsection would be payable for psychological counseling of the surviving children of an employee or family member who is killed in a terrorist attack.

Subsection (f) provides that new section 5570 applies to any disability or death resulting from an injury which occurs after September 30, 1985.

Subsection (b) of section 2 of H.R. 2851 makes conforming amendments to chapter 55 of title 5, United States Code.

SECTION 3. RETENTION OF LEAVE BY ALIEN EMPLOYEES FOLLOWING INJURY FROM HOSTILE ACTION ABROAD

Section 3 of H.R. 2851 authorizes up to one year's leave with pay for a foreign service national employee to recuperate from injuries resulting from terrorist actions. Section 3 amends section 6325 of title 5, United States Code, by making the provisions of section 6325 applicable to an alien employee referred to in section 6301(2)(viii) of title 5 for any leave granted to such alien employee under section 6310 of title 5 or under section 408 of the Foreign Service Act of 1980. Section 6325 provides an employee with up to one year's leave for absence due to an injury incurred while serving abroad and resulting from war, insurgency, mob violence, or similar hostile action. Section 6310 authorizes the head of an agency to grant leaves of absence, with pay, to alien employees who occupy positions outside the United States. Section 408 of the Foreign Service Act of 1980 concerns local compensation plans. Some foreign national employees are granted leave under local compensation plans and some are granted leave under the provisions of title 5.

SECTION 4. SENSE OF CONGRESS

Section 4 of H.R. 2851 expresses the sense of Congress on three matters. First, the committee believes that the recommendation contained in the report entitled "The Final Report and Recommendations of the President's Commission on Hostage Compensation," dated September 21, 1981, stating that legislation should be adopted to provide for the payment of tax-exempt detention benefits of $12.50 per day for each day of captivity for military and civilian personnel of the United States held in captive status in Iran at any time between November 4, 1979, and January 21, 1981, is unacceptable and inappropriate.

Second, the committee believes that the decision of the United States Government to agree to and abide by paragraph 11 of the Algiers Agreement cutting off damage suits by hostages against the Government of Iran inappropriately deprives the victims of Iran's illegal actions of the right to seek compensation from the Government of Iran.

Third, the committee believes that since the issuance of the final report of the President's Commission on Hostage Compensation, the executive branch has not taken adequate action to seek appropriate compensation for those held captive in Iran.

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SECTION 5. BENEFITS FOR INDIVIDUALS SEIZED IN IRAN IN 1979

Subsection (a)(1) of section 5 of H.R. 2851 entitles an employee (including a contract employee of the Government) held captive in Iran from November 1979 to January 1981 to a payment of $50,000. The committee intends that Richard Queen who was held in captivity in Iran for 249 days and was released early because he had contracted multiple sclerosis should also receive this payment.

Paragraph (2) provides that any employee who was held as a captive in Iran beginning in November 1979 and ending before January 1981 is entitled to an amount which shall be determined by the President, taking into account the $50,000 payment provided to full-term hostages, as well as the general provisions for such a payment, including a minimum of the maximum per diem payable for the geographic area at the time of captivity. The amount of $50,000 is more than twice the Tehran per diem multiplied by 444 days. The committee arrived at this figure by increasing the amount which would be payable under the per diem formula to account for two additional factors. One factor is the extreme harshness of the captivity. The other factor is that these individuals have received no payment, although they have been free for four and a half years. The committee intends that the six United States employees who were given refuge in the Embassy of Canada in Iran for 86 days receive payment under this section.

Subsection (b) provides that section 5569(d)(4) of title 5, as added by the bill, concerning settlement of accounts after an employee's death, shall apply with respect to any amount payable to the Iranian hostages under this section.

Subsection (c) provides that any amount payable to an Iranian hostage under this section shall be in lieu of any amount which would otherwise be payable to that person under subsection (d) of new section 5569 of title 5, United States Code.

Subsection (d) provides that any determination by the President under this section is conclusive and is not subject to judicial review.

Subsection (e) defines, by reference, "captive" for purposes of section 5 as an individual in the civil service, or a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the civil service (other than as a member of the armed forces) defined in section 5569(a)(1) of title 5, United States Code. This definition excludes the 21 members of the armed forces who were held captive for the full 444 days. The committee believes that these individuals should receive the same payment as the civilian hostages. This matter, however, falls within the jurisdication of the Committee on Armed Services.

SECTION 6. EFFECTIVE DATE; TRANSITION PROVISIONS

Subsection (a) provides that the amendments made by the bill shall take effect on October 1, 1985.

Subsection (b)(1) authorizes allotments from pay and allowances to a savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by the bill) for any pay period ending after January 21, 1981, and before the establishment of the fund.

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Interest on allotted pay for any pay period shall be calculated as if the allotment had occurred at the end of the pay period.

Subsection (b)(2) provides that the benefits under subsection (c) (medical benefits for captives and family members), and subsection (f) (educational benefits), of section 5569, as added by the bill, will be available to family members of individuals taken captive after January 21, 1981, and before the effective date of the amendments made by the bill, under regulations prescribed by the President.

Paragraph (3) provides that for purposes of subsection (b), "pay and allowances" has the meaning provided under section 5561 of title 5, United States Code.

COST

The cost estimate prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974 is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 12, 1985.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2851, the Victims of Terrorism Compensation Act, as ordered reported by the House Committee on Post Office and Civil Service, June 26, 1985.

The bill would entitle federal government employees and their families who are victims of terrorism abroad or within the United States to certain benefits. For those employees held captive in Iran from November 1979 to January 1981, the bill authorizes a payment of $50,000 each. Other employees taken captive since 1979 would receive at least an amount equal to the per diem payable in the region. If the bill is enacted, it would take effect on October 1, 1985, and the one-time outlays resulting from these two provisions would be at least $1.7 million in fiscal year 1986. (This assumes that hostages held less than 444 days would receive a pro rata portion of the $50,000.)

Any estimate of additional outlays in 1986 and thereafter would be uncertain, because it would depend on the number of employees or dependents taken captive and whether each instance meets the eligibility requirements for the benefits. We can, however, estimate what some of the individual benefits might cost. For example, 90 days after an employee is taken captive, the employee's family members would be eligible for educational assistance payments that could continue for almost three years. We estimate that such payments would be about $400 per month for each family member receiving benefits. In the case of compensation for disability of an employee's family member, the payment would be about $16,000 per year. Additional death benefit costs would result primarily from the deaths of family members, rather than from the deaths of employees, whose beneficiaries would generally receive death bene-

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fits in any event. For example, if the spouse of an employee is killed, the death benefit would be between 50 percent and 75 percent of the gross salary of the average grade of the general schedule, which is currently about $22,000. Payments would be made for medical expenses incidental to the captivity, if the expenses are not already covered by other government programs or employees' health insurance; thus, payments might be largely for mental health care, possibly costing $3,000 or more per year for an individual. Other provisions of the bill would have no cost impact.

Enactment of this legislation would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

OVERSIGHT

Under the rules of the Committee on Post Office and Civil Service, the Subcommittee on Civil Service and the Subcommittee on Compensation and Emloyee Benefits are vested with legislative and oversight jurisdiction over the subject matter of this legislation. As a result of the hearings, the subcommittees concluded there is ample justification for enacting this legislation.

The committee received no report of oversight findings or recommendations from the Committee on Government Operations pursuant to clause 4(c)(2) of House Rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of House Rule XI, the committee has concluded that the enactment of H.R. 2851 will have no inflationary impact on the national economy.

ADMINISTRATION VIEWS

Set forth below is a letter from the Department of State transmitting the Administration's hostage relief proposal:

U.S. DEPARTMENT OF STATE,
Washington, DC, March 26, 1985.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: Enclosed for your consideration by the Congress is a draft bill to make the Hostage Relief Act of 1930 permanent legislation and to modify it in light of subsequent developments. As you will recall, the Hostage Relief Act of 1980 expired at the end of 1982. Since that time the Aministration has twice submitted to the Congress proposed replacement legislation, in 1982 and 1983. Circumstances made it impossible for those proposals to receive active consideration.

Nevertheless, the Administration believes that it would be highly desirable to have permanent legislation which clarifies the Government's obligation to hostages and to their families and provides necessary relief for them in areas of education and medical services

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and which also provides the possibility, at the discretion of the President, for there to be additional payments to victims of hostage incidents abroad.

It would be the Administration's intention to use the authority proposed in Subsection 2(i) of the bill to pay additional benefits to the Tehran hostages and certain others, as recommended by the President's Commission on Hostage Compensation in its 1981 report. The cost of the bill, assuming that this is done, would be approximately $300,000.

We would appreciate the early consideration of this proposed legislation by the Congress. A similar letter is being sent to the President of the Senate.

We have been advised by the Office of Management and Budget that from the standpoint of the Administration's program, there is no objection to the enactment of the enclosed bill.

Sincerely,

J. EDWARD FOX,
Acting Assistant Secretary,
Legislative and Intergovernmental Affairs.

Enclosures: 1. Draft Bill, 2. Sectional Analysis.

A BILL To amend and extend the Hostage Relief Act of 1980, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hostage Relief Act Amendments of 1985".

SEC. 2. (a) Section 101 of the Hostage Relief Act of 1980 (94 Stat. 1967; 5 U.S.C. 5561 note) (hereinafter referred to as the "Act") is amended—

(1) by striking out "title" and inserting in lieu thereof "Act",

(2) by amending paragraph (2) to read as follows:

"(2) The term 'hostage period' means the period beginning and ending on a date determined by the Secretary of State and published in the Federal Register.", and

(3) by inserting "activities of" after "against" in subparagraph (A) of paragraph (4).

(b) Subsection (a) of section 102 of the Act is amended by inserting", who remains in a captive status for 30 days or more," after "American hostage" the first time it appears.

(c) Section 103 of the Act is amended—

(1) by striking out "and" at the end of paragraph (1).

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

(3) by adding after paragraph (2) the following new paragraph:

"(3) is not covered by other Government medical or health programs.".

(d) Section 104 of the Act is amended—

(1) by striking out "shall" in paragraph (1) of subsection (a) and inserting in lieu thereof "may",

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) Payments may be made under this subsection for education or training of a spouse or child of an individual who is an Ameri-

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can hostage or whose death is incident to being an American hostage, on the same basis as educational assistance benefits provided individuals made eligible under subparagraph (A)(i), (A)(iii), (B), or (C) of section 1701(a)(1) of title 38, United States Code, except that in order to respond to special circumstances, the President may specify a date for purposes of cessation of assistance under this paragraph which is later than the date which would otherwise apply.",

(3) by striking out paragraph (3) of subsection (a) and redesignating paragraph (4) as paragraph (3) of subsection (a),

(4) by inserting in paragraph (3) of subsection (a) (as redesignated by paragraph (3)) ", or similar assistance under any other law" immediately before the period, and

(5) by inserting ", to the extent that such payments are not authorized by any other law" immediately before the period in paragraph (1) of subsection (b).

(e) Section 105 of the Act is amended—

(1) by striking out "an American hostage" in subsection (a) and inserting in lieu thereof "an individual who is placed in a captive status during a hostage period", and

(2) by striking out "American hostage" each time it appears in subsections (b) and (c) and inserting in lieu thereof "individual".

(f) Section 106 of the Act is repealed and section 107 is redesignated as section 106.

(g) Title II of the Act is repealed.

(h) The Act is amended by striking out title III and inserting in lieu thereof the following new title:

"TITLE II—ADDITIONAL HOSTAGE BENEFITS

"PRESIDENTIAL DISCRETION

"SEC. 201. (a) For any captive status occurring on or after November 4, 1979, the President may provide a payment to any American hostage or to the surviving spouse or dependment of any American hostage who dies in captive status. Such payment shall be in addition to any other benefit provided by law.

"(b) The President, in determining whether to make such a payment and its amount, may take into account unusually harsh treatment received by such hostage. The President shall prescribe regulations for the implementation of this section.".

(i) Any determination, authorization, regulation, order, agreement, or other action made, issued, undertaken, entered into, or taken under the authority of any provision of the Hostage Relief Act of 1980 repealed by this Act shall continue in full force and effect until modified, revoked, or superseded by appropriate authority. Any claim or appeal which was filed or made or is hereafter filed or made in timely fashion by an individual heretofore eligible to file or make such claim under any such provision shall continue to be governed by the repealed provision."

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HOSTAGE RELIEF ACT AMENDMENTS OF 1985 SECTION-BY-SECTION ANALYSIS

Section 1 of the bill is the short statutory title.

Subsection 2(a) of the bill contains amendments to section 101 of the Hostage Relief Act of 1980 (hereafter "the Act"). The first amendment is related to an amendment (subsection 2(g) of the bill) which repeals Title II of the Act, and it means that the definitions in section 101 of the Act apply to the whole Act. Eligibility for coverage remains identical to that found in the Hostage Relief Act of 1980, with the exception of section 105 (see analysis for subsection 2(e) below). The second amendment makes the Act permanent legislation by eliminating the July 1, 1983 termination date. It authorizes the Secretary of State to define hostage periods by publishing the beginning and termination dates of such incidents in the Federal Register. It is not intended that any period prior to November 4, 1979 be declared a hostage period for this purpose. The third amendment clarifies the intent to cover hostile actions resulting from the presence and political visibility of United States operations abroad, in cases where U.S. Government buildings may not be directly involved.

Subsection 2(b) of the bill amends section 102 of the Act to permit allotment of pay and allowances to a savings fund for those who remain in a captive status for 30 days or more effective from the beginning of the captive status.

Subsection 2(c) of the bill amends section 103 of the Act and makes clear that medical benefits under the Act are intended to supplement, not duplicate, existing government medical or health benefits (e.g. Federal Employees' Compensation Act which covers illnesses incurred during or resulting from the hostage situation). Subsection 2(a) of the bill, by making the Act permanent, makes clear that medical benefits to Iran hostages and their families may continue after the original 1983 termination date.

Subsection 2(d) of the bill contains five amendments to section 104 of the Act. Subsection 104(a)(1) is amended to authorize educational benefits for the family of hostages, rather than require them to be paid. This permits the overall benefit package to be tailored to particular hostage situations.

Similarly, subsection 104(a)(2) is amended to authorize, but not require, payment of educational benefits. It is also revised for editorial reasons to incorporate subsection (a)(3), which is repealed.

Subsection 104(a)(4) of the Act is amended to make clear that educational benefits for hostage families under the Act are intended to supplement, not duplicate, other government educational benefit programs.

Similarly subsection 104(b)(1) of the Act is amended to make clear that educational benefits for hostages supplement, not duplicate, other benefit programs.

Subsection 2(e) of the bill amends section 105 of the Act to extend the civil relief under the Soldiers' and Sailors' Civil Relief Act of 1940 provided to federal employees by that section to all individuals with property rights in the U.S. who are placed in a captive status abroad during a hostage period. This is the only broad-

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ened category of eligiblity compared to the Hostage Relief Act of 1980.

Subsection 2(f) of the bill repeals section 106 of the Act. Section 106 provided hostage benefits to a Peace Corps volunteer and has served its purpose.

Subsection 2(g) repeals Title II of the Act, containing tax exemption provisions which are either obsolete or considered inappropriate for permanent legislation.

Subsection 2(h) adds a new provsion to the Hostage Relief Act which authorizes a payment to Federal civilian and military personnel who were taken hostage in Iran or subsequently. The President would have discretion to use this authority. No tax exemption is provided for any such payment.

Finally, the bill contains a saving provision subsection 2(i) for actions taken or initiated under provisions repealed by the bill. The unrepealed provisions, of course, would continue in effect without interruption.

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 55—PAY ADMINISTRATION

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SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

5561. Definitions.
5562. Pay and allowances; continuance while in a missing status; limitations.
5563. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.
5564. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.
5565. Agency review.
5566. Agency determinations.
5567. Settlement of accounts.
5578. Income tax deferment.
5569. Benefits for captives.

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5570. Compensation for disability or death.

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Subchapter VII—Pasyments to Missing Employees

* * * * * * *

§ 5569. Benefits for captives

(a) For the purpose of this section—

(1) "captive" means any individual in a captive status commencing while such individual is—

(A) in the civil service, or

(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the civil service (other than as a member of the armed forces);

(2) the term "captive status" means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

(3) "missing status"—

(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

(B) in the case of an individual other than an employee, has a similar meaning; and

(4) "family member", as used with respect to a person, means—

(A) any dependent of such person; and

(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title of any other provision of law.

(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

(4) Any interest accruing under this subsection on—

(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

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(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

(1) is incident to such individual being a captive; and

(2) is not covered—

(A) by any Government medical or health program; or

(B) by insurance.

(d)(1) The President shall make a cash payment to any individual who became or becomes a captive commencing on or after November 4, 1979.

(2) A payment under this subsection in the case of any individual held as a captive—

(A) shall be equal to an amount determined by the President, taking into account the treatment received by such individual while in captivity and any othr factor which the President considers appropriate; but

(B) shall be not less than the amount which would be payable to any person under section 5702 of this title, based on—

(i) a period of time equal to the period for which such individual was held as a captive; and

(ii) the maximum per diem allowance which, during the period of captivity involved, was in effect under such section for the geographical area or areas where such individual was so held, as determined by the President.

(3) A payment under this subsection shall be in addition to any other amount provided by law.

(4) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

(5) The regulations prescribed by the President under this subsection shall include regulations under which paragraph (2)(B) shall be applied with respect to any period during which an individual is held in a location to which section 5702 of this title does not apply or during which the whereabouts of the individual cannot be determined.

(e)(1) Under regulations prescribed by the President, the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940, including the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act, shall be provided in the case of any individual who is a captive.

(2) In applying such Act under this subsection—

(A) the term "person in the military service" is deemed to include any such captive;

(B) the term "period of military service" is deemed to include the period during which the individual is in a captive status; and

(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

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(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

(i) after that individual has been in captive status for 90 days or more, and

(ii) on or before—

(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

(E) For the purpose of this paragraph, 'child' means a dependent under section 5561(3)(B) of this title.

(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books and equipment, and other education expenses, while attending an educational or training institution.

(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

(i) after the termination of that individual's captive status, and

(ii) on or before—

(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the date on which the captive status of that individual terminates, or

(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

(3) Assistance under this subsection—

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(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than full-time education or training).

(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance of program under chapters 35 and 36 of title 38.

(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

(1) such family member is held in captive status; and

(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

(j) The President may prescribe regulations necessary to administer this section.

§ 5570. Compensation for disability or death

(a) For the purpose of this section—

(1) "employee" means—

(A) any individual in the civil service; and

(B) any individual rendering personal service to the United States similar to the service of an individual in the civil service (other than as a member of the armed forces); and

(2) "family member", as used with respect to an employee, means—

(A) any dependent of such employee; and

(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

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(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

(f) This section applies with respect to any disability or death resulting from an injury which occurs after September 30, 1985.

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Subpart E—Attendance and Leave

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CHAPTER 63—LEAVE

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Subchapter II—Other Paid Leave

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§ 6325. Absence resulting from hostile action abroad

Leave may not be charged to the account of an employee for absence, not to exceed one year, due to an injury—

(1) incurred while serving abroad and resulting from war, insurgency, mob violence, or similar hostile action; and

(2) not due to vicious habits, intemperance, or willful misconduct on the part of the employee.

The preceding provisions of this section shall apply in the case of an alien employee referred to in section 6310(2)(viii) of this title with respect to any leave granted to such alien employee under section 6310 of this title or section 408 of the Foreign Service Act of 1980.

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